

STAFF SUMMARY FOR JUNE 14-15, 2023

24. COMMISSION POLICIES**Today's Item****Information** ☒**Action** ☐

Receive update on planning and coordination for reviewing Commission policies. Discuss and potentially approve first series of policy reviews.

Summary of Previous/Future Actions

- Commission requested staff develop plan for review of policies that includes a “JEDI and tribal lens” December 14-15, 2022
- Updates on policy review during executive director's reports February 8-9, 2023 and April 19-20, 2023
- **Today receive initial staff assessment and provide direction on next steps** **June 14-15, 2023**

Background

The Commission has a policy titled [Implementation and Review of Policies](#) which states:

The Fish and Game Commission shall regularly review implementation by the Department of Commission policy. To assist in this review, the Department shall, upon request by the Commission, report on the subject of departmental adherence to specified Commission policies, and any administrative problems posing a need for modifying, repealing or adding Commission policies.

At its December 2022 meeting, the Commission requested that staff work with the Department to conduct a basic, high-level assessment of the Commission's policies to set the stage for developing a proposed plan for a comprehensive review of policy implementation using a justice, equity, diversity and inclusion (JEDI) and tribal lens. Since December, staff have worked with the Department to conduct an initial assessment to help inform a future policy review. Staff assessed all 63 existing Commission policies, answering seven basic questions:

- When was the policy initially adopted and last revised?
- Is the policy currently in use?
- Is this policy internal to the Commission only?
- What is the workload associated with a full review and potential revision of this policy relative to the workload of other policy reviews?
- Should the Commission consider repealing this policy?
- Does the policy impact other agencies outside of the Commission and Department?
- Are there potential tribal or JEDI elements that need to be evaluated and potentially included or addressed by this policy?

Commission and Department staff held a series of meetings to assess the answers to the seven questions for each policy. While the assessment is preliminary and the answers to some of these questions will need additional analysis or may be refined as the process proceeds,

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Commission staff believes this level of review provides a solid foundation for determining next steps in the process. Through these discussions staff identified key issues regarding specific policies as well as themes that emerged throughout the collection of policies.

Based on the initial assessment, it is clear that many policies are significantly out of date. While a policy's revision date is not the same as the most recent review date (as some policies may pass a review with no revision), in the aggregate the dates generally reflect the current state of the policies. The mean revision date is 2001, the median revision date is 2003, and the oldest policies have not been revised since 1984. As such, staff expect a significant, multi-year effort to review and update all 63 policies.

Potential Approach

Commission policies vary in length, complexity, scope, implications, stakeholder engagement, impacts to other agencies, and other factors; staff considered multiple approaches and ultimately has developed a proposal to balance these considerations. The potential approach would create five "bins" for categorizing the further review of policies, with a different course of action for each bin. The entirety of the review would be carried out in partnership with the Department (except perhaps those policies that are internal to the Commission only). In all cases, tribes and tribal communities would be invited to actively engage and collaborate with the Commission on these important policy decisions prior to the first meetings. In addition to the stakeholder participation options specified for each process and consistent with the Bagley-Keene Open Meeting Act, public input would be expected at each Commission and committee meeting.

1. No Update Needed

- *Definition:* Policies that have been reviewed or adopted recently and do not need further review at this time.
- *Process:* A one- or two-meeting process, starting with staff presenting the policy and rationale for no update; the Commission could discuss and concur or, if needed, continue discussion and concurrence or other direction to a second meeting.
- *Example:* JEDI Policy, adopted February 2022 as part of the initial effort to develop a Commission JEDI plan.

2. Repeal

- *Definition:* Policies that can be repealed because they are duplicative of statute, regulation or a Commission-adopted management plan, can be combined with another policy, should be adopted as a regulation, or are no longer applicable.
- *Process:* A two-meeting process, starting with staff presenting the policy and rationale for repeal and Commission discussion. At the second meeting, the Commission would continue discussion and potentially repeal the policy.
- *Example:* Retention of Commission Records Policy, which is duplicative of the state-mandated California Records and Information Management Program that oversees development of records retention schedules.

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3. *Minor Revisions*

- *Definition:* Policies that need minor revisions to update language.
- *Process:* A two-meeting process, where staff presents proposed revisions to the Commission at one meeting, during which the Commission discusses and provides feedback. At the second meeting, staff would bring any proposed revisions to the Commission using feedback from the previous meeting, for potential adoption.

An alternative model, depending on the nature of the subject, is a discussion of the proposed revisions at a committee meeting followed by discussion and potential adoption at the next Commission meeting.

- *Example:* Commission-Designated Wild Trout Waters Policy, which is under consideration at today's meeting for revision after receiving and discussing the proposal at the April 2023 Commission meeting.

4. *Major Revisions*

- *Definition:* Policies that need significant revisions and would need review and discussion outside Commission meetings.
- *Process:* The process would vary based on need, though options include:
 - vetting and review at committee meetings,
 - subject-specific outreach meetings and/or workshops,
 - and informal or formal stakeholder workgroups.

Each policy revision would require a minimum of two Commission meetings before considering action. The Commission may wish to designate one of its members to work more actively with staff on specific policies requiring major revisions.

- *Example:* Policy on Hardwoods, which was developed and adopted jointly with the California State Board of Forestry and Fire Protection and has a long history and numerous stakeholders representing different interests in the policy.

5. *Repeal and Replace*

- *Definition:* Policies that need a wholesale re-write with significant discussion outside Commission meetings.
- *Process:* The process has a high probability of requiring a stakeholder workgroup in addition to other outreach efforts; multiple committee and Commission meetings are likely necessary. A designated Commission member also may be necessary to help keep the process on task and provide guidance to staff and stakeholders at key points.
- *Examples:* Restricted Access Commercial Fisheries Policy which will necessitate considerable discussion, examining potential implications of potential new pathways, and (likely) developing informal negotiated agreements.

The bin categories and their associated review processes would not be set in stone; if at any point the nature of potential revisions were to change, the process to review and potentially

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revise a policy could be adjusted based on Commission direction. Additionally, categorizing policies into bins provides a framework for selecting policies for review without creating a rigid schedule; policies can be selected for review on a rolling basis based on conditions at the time, including staff capacity, changing environmental conditions, administration priorities, and emerging management issues.

Potential Parameters

During its initial review, staff encountered a number of questions regarding the overall approach to the review, and a structure to help keep the effort tractable. Based on subsequent discussions, staff identified potential parameters related to scope, existing law or regulation, and grouping policies based on themes.

Scope of Review

Current Commission policies vary widely in their breadth and scope; some are expansive and general while others maintain a very narrow and specific focus. Reviewing and revising existing policies based on their current content and merit would help keep the scope of this review process manageable. During reviews, staff could assess any potential deficiencies or needs for a broader policy in the same subject area and could recommend the Commission address the subject more broadly as an outcome of the review.

Duplication of Statute or Regulations

Many policies contain significant overlap with existing statute or regulation; in some cases, the statute or regulations were established after the policy was adopted. For multiple reasons, statutory and regulatory constructionists recommend avoiding creating policies that duplicate existing law or regulation. If a policy is intended to expand upon or clarify an existing law or regulation, the policy can be revised to clearly reference the applicable law, remove duplicative text, and ensure that it focuses on the Commission's unique expansion, clarification, or interpretation of the law.

Themes

Staff identified a number of themes running throughout multiple policies that would ideally be considered holistically, in addition to being addressed within specific policies. The themes could be highlighted for Commission consideration as they arise in the review process, allowing for potentially grouping policies with similar themes to be reviewed concurrently.

Proposed Next Steps

Staff, with assistance from Department staff, proposes to bring to the August 22-23 Commission meeting:

- All policies categorized into one of five “bin” categories;
- a list of policies that staff believes do not need updates as part of this review process, and a list of policies staff believes can be repealed, for potential Commission action in October; and

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- a list of three to four policies to prioritize for further review and potential revision, and a proposed timeline for reviewing those policies (selecting policies that only need “minor revision” in order to fine tune the process before tackling more challenging policies).

Additionally, staff recognizes that some policies may warrant more active engagement from Commissioners in the review and development process. Staff requests that individual Commissioners consider which policies they may desire to engage more actively in developing.

Significant Public Comments

Two non-governmental organizations provide a copy of comments submitted to the California Board of Forestry and Fire Protection (BOF) Range Management Advisory Committee regarding recommendations for the review of the Commission’s and BOF’s Joint Policy on Hardwoods (Exhibit 2).

Recommendation

Commission staff: Provide feedback and direction on the five-bin approach, applying the three parameters, proposed next steps, and any specific policies or issues the Commission would like to prioritize. Consider which policies individual Commissioners would like to take a more active role in developing and provide feedback to staff prior to the August Commission meeting.

Exhibits

1. [Initial staff assessment of policies to help inform future policy review, dated June 6, 2023](#)
2. [Letter from Janet Cobb, Executive Officer, California Wildlife Foundation/California Oaks and Angela Moskow, Manager, California Oaks Network, to the California Board of Forestry and Fire Protection’s Range Management Advisory Committee, dated April 27, 2023](#)

Motion (N/A)

California Fish and Game Commission
Commission Policies as of January 1, 2023 — Joint Staff Review with the California Department of Fish and Wildlife*
Revised June 6, 2023

Current Category	Policy Tracking No.	Policy Title	Year Adopted and Revision Dates	Last Revised	Currently Used?	Internal to CFGC Only?	Estimated Effort	Consider Repeal?	Impacts Other Agencies?	Tribal or JEDI Nexus?
1. Commission	1.1	Code of Conduct	Adopted 03/06/13	3/6/2013	Yes	Yes	Low	No	No	Yes
1. Commission	1.6	Implementation and Review of Policies	Amended & Combined With "Reports By the Department": 12/04/92; Amended: 06/07/07	6/7/2007	Partially	No	High	No	No	Yes. CFGC needs to review implementation of its policies in order to understand JEDI impacts.
1. Commission	1.7	Justice, Equity, Diversity and Inclusion	Adopted: 02/16/22	2/16/2022	Yes	No	Low	No	No	Yes. Core JEDI policy that affects JEDI aspects of all other policies.
1. Commission	1.8	Legislation	Amended: 12/04/92; 11/17/11	11/17/2011	Partially	No	Low	No	No	Yes
1. Commission	1.9	Retention of Commission Records	Amended: 02/04/93, 08/01/03	8/1/2003	Partially	Yes	Med	Yes	No	Yes. Supports transparency and access to information.
1. Commission	1.10	Wildlife Prosecutor of the Year	Adopted: 06/22/16	8/7/2019	Yes	No	Low	No	No	Potentially or unclear
2. Fisheries	2.1	Anadromous Rainbow Trout	Amended: 06/18/93; 05/09/08 (Title Changed from Steelhead Rainbow Trout)	5/9/2008	Yes	No	High	No	National Marine Fisheries Service, mitigators	Potentially or unclear
2. Fisheries	2.3	Commercial Use of Native Reptiles	Adopted: 02/06/03 Amended: 09/30/05	9/30/2005	Partially	No	High	Yes	No	Potentially or unclear
2. Fisheries	2.4	Commission Designated Wild Trout Waters	Amended: 01/04/94, 06/22/95, 03/06/97, 11/06/98, 04/02/99 (amended Heritage Trout Waters), 12/08/00, 04/03/03, 12/12/08, 11/04/09, 10/21/10, 11/17/11, 11/07/12; 11/06/13; 12/03/14; 12/10/15; 10/20/16 [Need to add 2017, 2018, 2019, 2020, 2021 and 2022.]	10/12/2022	Yes	No	Med	No	Yes	Potentially or unclear
2. Fisheries	2.5	Cooperatively Operated Rearing Programs for Salmon and Steelhead	Amended: 06/18/93 (Amended Title, Formerly "Publicly Operated Rearing Programs for Salmon & Steelhead")	6/18/1993	Yes	No	High	No	U.S. Fish and Wildlife Service	Potentially or unclear
2. Fisheries	2.6	Delta Fisheries Management Policy	Adopted: 02/21/2020	2/21/2020	Yes	No	High	No	Yes	Potentially or unclear
2. Fisheries	2.7	Emerging Fisheries	Adopted: 10/20/00	10/20/2000	Yes	No	Low	No	National Marine Fisheries Service, Pacific Fishery Management Council	Potentially or unclear
2. Fisheries	2.8	Forage Species	Adopted: 11/07/12	11/7/2012	Yes	No	High	No	National Marine Fisheries Service, Pacific Fishery Management Council, cross-boundary agencies (Mexico)	Potentially or unclear

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2. Fisheries	2.9	Golden Trout	Amended: 05/14/93	5/14/1993	Yes	No	High	No	U.S. Fish and Wildlife Service	No
2. Fisheries	2.10	Planting Fish in Youth Camps	Adopted 05/13/93 Amended: 05/04/04 Amended: 05/14/05 (Amended Title, formerly "Youth Fishing Programs")	5/4/2004	Yes	No	Med	No	Yes	Yes
2. Fisheries	2.11	Salmon	Adopted: 06/18/93; Amended: 06/18/05 (Amended Title, Formerly "Steelhead & Salmon"); 05/09/08	5/9/2008	Yes	No	High	No	National Marine Fisheries Service, U.S. Fish and Wildlife Agency, mitigation agencies, tribes	Yes
2. Fisheries	2.12	Stocking Fish in Waters Where Anglers Pay Access Fees	Amended: 08/26/93, 12/02/94; 12/04/97, 01/07/99, 12/08/00, 12/07/01, 12/20/02, 12/05/03, 12/09/05, 12/07/07; 06/30/11	6/30/2011	Yes	No	High	No	Local agencies, county agencies	Yes
2. Fisheries	2.13	Striped Bass	Adopted: 05/04/96	2/21/2020	Yes	No	High	No	National Marine Fisheries Service	Potentially or unclear
2. Fisheries	2.14	Trophy Black Bass Program	Adopted: 05/15/92	5/15/1992	Yes	No	High	No	Yes	Potentially or unclear
2. Fisheries	2.15	Trout	Amended: 01/04/94	1/4/1994	Yes	No	High	No	Yes	Potentially or unclear
2. Fisheries	2.16	Warmwater Game Fish Stocking	Amended: 08/26/93	8/26/1993	Yes	No	High	Yes	Yes	Yes
2. Fisheries	2.17	Youth Fishing Programs	Amended: 05/14/93 (Amended Title, Formerly "Planting Fish For Youth Fishing Programs")	5/14/1993	Yes	No	High	No	Cities, counties	Yes
3. Wildlife	3.1	Deer Management	Amended: 11/13/84	11/13/1984	Yes	No	High	No	Yes	Yes
3. Wildlife	3.2	Depredation Control	Unknown	Unknown	Yes	No	High	No	Yes	Potentially or unclear
3. Wildlife	3.3	Elk	Amended: 11/4/93	11/4/1993	Yes	No	High	No	Yes	Yes
3. Wildlife	3.4	Raptors	Amended: 12/03/93	12/3/1993	Yes	No	High	No	Yes	Yes
3. Wildlife	3.5	Terrestrial Predator Policy	Adopted: 04/19/18	4/19/2018	Yes	No	High	No	Yes	Potentially or unclear
3. Wildlife	3.6	Upland Game	Adopted: 06/23/89 Amended: 12/03/93, 12/02/04	12/2/2004	Yes	No	High	No		Yes
3. Wildlife	3.7	Wild Pigs	Amended: 12/03/93	12/3/1993	Yes	No	High	No	Yes	Yes
4. Miscellaneous	4.1	Al Taucher's Preserving Hunting and Sport Fishing Opportunities Policy	Adopted: 06/16/94	6/16/1994	Partially	No	High	No		Yes
4. Miscellaneous	4.2	California Policy for Native Plants	Adopted: 06/11/15	6/11/2015	Yes	No	Med	No	California State Parks, California Department of Conservation, CalFire, California Board of Forestry and Fire Protection	Yes
4. Miscellaneous	4.3	Cooperation	Unknown	Unknown	Partially	No	Low	No	Yes	Yes
4. Miscellaneous	4.4	Endangered and Threatened Species	Unknown	Unknown	Yes	No	Med	No	Yes	No

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4. Miscellaneous	4.5	Introduction of Non-native Species	01/04/94 - Amended Title, Formerly "Exotic Species" 6/23/05 - Amended Title, formerly "Intro of Exotics"	6/23/2005	Yes	No	High	No	California State Parks, California Department of Conservation, CalFire, California Board of Forestry and Fire Protection, California Department of Food and Agriculture	No
4. Miscellaneous	4.6	Kelp	Amended: 12/08/05	12/8/2005	Partially	No	High	Yes	No	Yes
4. Miscellaneous	4.7	Land Use Planning	Adopted: 11/13/84 Amended: 03/03/94	3/3/1994	Partially	No	High	No	Local, state, regional, federal and tribal land management agencies	Yes
4. Miscellaneous	4.8	Designation of Department Controlled Lands as State Wildlife Areas	Amended: 04/07/94, 08/18/05	8/18/2005	Yes	No	Med	No	No	Potentially or unclear
4. Miscellaneous	4.9	Management and Utilization of Fish and Wildlife on Federal Lands	Unknown	Unknown	Unknown	No	Med	No	National Park Service, U.S. Forest Service, U.S. Fish and Wildlife Service, U.S. Department of Defense, U.S. Bureau of Indian Affairs	Potentially or unclear
4. Miscellaneous	4.10	Management and Utilization of Fish and Wildlife on Private Lands	Amended: 12/10/87, 05/09/94	5/9/1994	Yes	No	High	No	Local, regional, state, federal and tribal government agencies	Potentially or unclear
4. Miscellaneous	4.11	Marine Protected Areas	Adopted: 08/06/99 Amended: 12/08/05 – Amended Title, formerly "Marine Ecological Reserves"	12/8/2005	Partially	No	High	Yes	Member organizations of the Marine Protected Areas Statewide Leadership Team	Yes
4. Miscellaneous	4.12	Multiple Use of Lands Administered by the Department of Fish and Game	Amended: 08/02/02	8/2/2002	Yes	No	High	No	No	Yes
4. Miscellaneous	4.13	Naming Installations	Amended: 04/07/94, 05/23/12	5/23/2012	Yes	No	High	No	No	Yes
4. Miscellaneous	4.14	National Forests	Adopted: 11/13/84	11/13/1984	Unknown	No	High	No	U.S. Forest Service	Yes
4. Miscellaneous	4.15	Non-native Turtles and Frogs	Adopted 04/08/10	4/8/2010	Partially	No	High	No	Yes	Yes
4. Miscellaneous	4.16	Planning	Amended: 05/09/94	5/9/1994	No	No	Med	Yes	No	Potentially or unclear
4. Miscellaneous	4.17	Prospecting on Fish and Game Lands	Amended: 05/09/94	5/9/1994	Yes	No	High	No	Yes	No
4. Miscellaneous	4.18	Public Information and Education	Amended: 03/02/95	3/2/1995	Partially	No	Med	No	California Department of Education	Potentially or unclear
4. Miscellaneous	4.19	Research	Amended: 06/16/94	6/16/1994	Yes	No	High	No	University of California	Potentially or unclear
4. Miscellaneous	4.20	Restricted Access Commercial Fisheries	Adopted: 06/18/99	6/18/1999	Partially	No	High	No	Yes	Yes

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4. Miscellaneous	4.21	Salton Sea	Amended: 06/16/94, 06/23/05	6/23/2005	Unknown	No	High	No	Extensive: https://saltonsea.ca.gov/partners/	Potentially or unclear
4. Miscellaneous	4.22	Season Opening Dates	Amended: 06/16/94, 08/01/03	8/1/2003	Yes	No	High	No	Local and regional government agencies	Potentially or unclear
4. Miscellaneous	4.23	Shellfish and Sea Otter Conflicts	Adopted: 04/02/99	4/2/1999	No	No	High	No	National Marine Fisheries Service, U.S. Fish and Wildlife Service	Potentially or unclear
4. Miscellaneous	4.24	Training, Testing and Trialing of Hunting Dogs	Adopted: 05/09/02	5/9/2002	Yes	No	Med	No	No	No
4. Miscellaneous	4.25	Tribal Consultation Policy	Adopted: 06/10/15	6/10/2015	Partially	No	High	No	Native American Heritage Commission, tribal governments	Yes
4. Miscellaneous	4.26	Use of Designated Department Lands for Privately Managed Public Hunting Areas	Adopted: 12/06/84 Amended: 08/04/94 (Amended title – Changed Shooting to Hunting)	8/4/1994	Unknown	No	Med	No	No	Yes
4. Miscellaneous	4.27	Water	Amended: 11/03/94	11/3/1994	No	No	High	Yes	California Department of Water Resources, State Water Resources Control Board, regional water quality control boards, local water agencies	Yes
4. Miscellaneous	4.28	Wetlands Resources	Adopted: 12/03/87 Amended: 08/04/94, 08/18/05	8/18/2005	Partially	No	High	No	U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Department of Water Resources, State Parks, state water board, regional water boards, CalTrans, tribes	Potentially or unclear
4. Miscellaneous	4.29	DFG Recommended Wetland Definition, Mitigation Strategies, and Habitat Value Assessment Methodology (this policy goes hand-in-hand with the CFGC response to the proposal, 4.30)	Adopted: 12/03/87 Amended: 08/04/94; 08/18/05	8/18/2005	Yes	No	Med	No	Potentially - see 4.28	Potentially or unclear
4. Miscellaneous	4.30	CFGC Comment to DFG on the Wetland Policy Implementation Proposal	See 4.29 (4.29 and 4.30 go hand-in-hand)		Yes	No	Med	No	Potentially - see 4.28	No
4. Miscellaneous	4.31	Wilderness Areas	Amended: 08/04/94	8/4/1994	Yes	No	High	No	National Park Service, U.S. Forest Service, U.S. Fish and Wildlife Service, U.S. Bureau of Land Management	Potentially or unclear

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5. Joint Policies - California State Board of Forestry and the California Fish and Game Commission	5.1	Joint Policy Statement on Pacific Salmon and Anadromous Trout	Adopted: 05/09/94 Amended by BOF: 08/09/01; Amendments Adopted by FGC: 08/23/01, Amended by BOF 02/03/09 and Adopted by FGC 03/05/09	3/5/2009	Unknown	No	High	No	CalFIRE, California Board of Forestry and Fire Protection, National Marine Fisheries Service, Pacific Fishery Management Council, local agencies	Potentially or unclear
5. Joint Policies - California State Board of Forestry and the California Fish and Game Commission	5.2	Interim Joint Policy on Pre-, During, and Post Fire Activities and Wildlife Habitat	Adopted: 05/09/94	5/9/1994	No	No	High	No	CalFIRE, California Board of Forestry and Fire Protection, U.S. Fish and Wildlife Service, local agencies	Yes
5. Joint Policies - California State Board of Forestry and the California Fish and Game Commission	5.3	Policy on Hardwoods	Amended by BOF 02/03/09 and Adopted by FGC 03/05/09	3/5/2009	Partially	No	High	No	CalFIRE, California Board of Forestry and Fire Protection, U.S. Fish and Wildlife Service, local agencies	Yes

***Note: This review is preliminary; answers to these questions are expected to change as the Commission undertakes its full review process.**

Range Management Advisory Committee review and recommended revisions of the Joint Policy on Hardwoods

Angela Moskow [REDACTED]

Thu 04/27/2023 02:09 PM

To: Wolf, Kristina [REDACTED]

Cc: jcobb [REDACTED] FGC

<FGC@fgc.ca.gov>;Robert.Gamon [REDACTED]

Dear Dr. Wolf,

Please find attached a comment letter submitted in advance of the Range Management Advisory Committee's review and recommended revisions of the Joint Policy on Hardwoods.

We thank you in advance for including this letter in the materials for the May meeting of the Range Management Advisory Committee.

Thank you so much,

Angela

Angela Moskow
California Oaks Information Network Manager
California Wildlife Foundation/California Oaks

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



California Wildlife Foundation/California Oaks, 201 University Avenue, H-43 Berkeley, CA 94710, (510) 763-0282

April 27, 2023

Range Management Advisory Committee
California State Board of Forestry & Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

RE: Range Management Advisory Committee review and recommended revisions of the Joint Policy on Hardwoods

Transmitted via e-mail to Kristina Wolf, PhD [REDACTED]

Dear Professor Horney and fellow members of the Range Management Advisory Committee:

The [California Wildlife Foundation](https://www.californiawildlife.org/) is committed to conserving, restoring, and maintaining habitats and corridor linkages throughout the state to ensure the biological diversity of species over time. California Wildlife Foundation's [California Oaks](https://www.californiaoaks.org/) program works to conserve and perpetuate oak ecosystems because of their critical role in providing plant and wildlife habitat, sequestering carbon, maintaining healthy watersheds, and sustaining cultural values.

This letter provides input for the upcoming Range Management Advisory Committee review and recommended revisions of the Joint Policy on Hardwoods regarding the policy's impacts on oak (*Quercus*) species. The 1994 policy states that California's Fish and Game Commission's and Board of Forestry and Fire Protection's (then State Board of Forestry) respective agencies should be guided by the position that hardwood harvesting and other land uses should be conducted in a sustainable manner that: "secures regeneration of all hardwood species, enhances the protection of fish, wildlife and plants of hardwood habitats, allows adequate recruitment of other native vegetation in hardwood habitats and meets state and federal water quality standards." California's stewardship of its native oaks is deficient in securing regeneration, sustaining biodiversity, and meeting water quality standards, as this letter will discuss.

The joint policy also identifies "the need for statewide legislation and...regulatory action, if necessary, to control harvesting and conversion of hardwood-rangelands ..." if current measures, which rely on county-level protections, fail to adequately address hardwood management and conservation. California's reliance on county and local oak protections has failed. Threats to oaks from habitat conversion and fragmentation, changed rainfall patterns, diminishing groundwater supplies, greater climatic stresses, new pathogens, expansion of non-native annual grasses, browsing and grazing pressure, changed fire regimes, and wildfires of extreme severity have continued or escalated on rangelands and other landscapes since the joint policy was prepared.

Lastly, the joint policy calls for a number of periodic actions to assess hardwood conservation. It is unclear if many of these actions are underway and it is clear that at least one of these actions have not been undertaken.

1. The lack of state leadership in protecting oaks is undermining California’s ability to meet its biodiversity and climate goals.

California’s resource management practices shifted to value commercial timber over ecosystem and cultural values of oaks following European settlement of the state in the late 18th century and the removal of Indigenous peoples as stewards of the land. Our state will not be able to reach the biodiversity and climate resilience goals articulated in Governor Newsom’s Executive Order N-82-20 without enacting protections for oaks. The executive order recognizes that stewardship of California’s natural and cultural resources is essential to the well-being of our communities and economy, citing the need to address habitat loss and other threats to natural communities.

Oaks sustain California’s biodiversity: California’s oak woodlands and oak-forested lands provide food and vital habitat for California’s native species, including 2,000 plants, 5,000 insects and arachnids, 80 amphibians and reptiles, 160 birds, and 80 mammals.¹

California Wildlife Foundation’s California Oaks program issued a 2021 [Oaks report](#) that demonstrates the importance of oaks for California’s imperiled biodiversity, with a focus on species, subspecies, varieties, populations, distinct population segments, evolutionarily significant units, and clades that are federally and/or state designated as endangered or threatened (listed), or are candidates for listing at the time of the report’s publication.

The report’s vertebrate data were derived from the [California Wildlife Habitat Relationship](#) information system. Thirty-three listed, candidate, and/or state fully-protected terrestrial and amphibian vertebrate species, subspecies, distinct population segments, evolutionarily significant units, and clades were found to be dependent upon oak (*Quercus*) and tanoak (*Notholithocarpus densiflorus*) habitat. Subsequently, a 34th subspecies, Humboldt Marten (*Martes caurina humboldtensis*), was added to the list, after the authors learned of its oak-dependence.² It is listed by the state as endangered and its Coastal Distinct Population is a candidate for federal listing,

The plant and invertebrate tables were created utilizing [California Natural Diversity Database](#) (CNDDDB) and oak woodlands data from the [Areas of Conservation Emphasis](#) (ACE) system. A threshold was established for average percentage overlap of all CNDDDB occurrences with the oak woodlands layer in ACE. The query found 134 listed and/or candidate plants and 26 listed and/or candidate invertebrates associated with oak (*Quercus*).

Oaks and unprotected biodiversity importance: As reported in the [Spring-Summer 2022 issue of Oaks](#), California ranks at the bottom of the United States in conserving lands characterized by NatureServe as “areas of unprotected biodiversity importance.”³ Many of these unprotected areas are oak woodlands. Please see the map from page three of the report, reproduced below, which overlays areas of unprotected biodiversity importance atop a map that shows oak woodlands and oak-forested lands. The overlap is even more striking if historic oak ranges, such as those in the

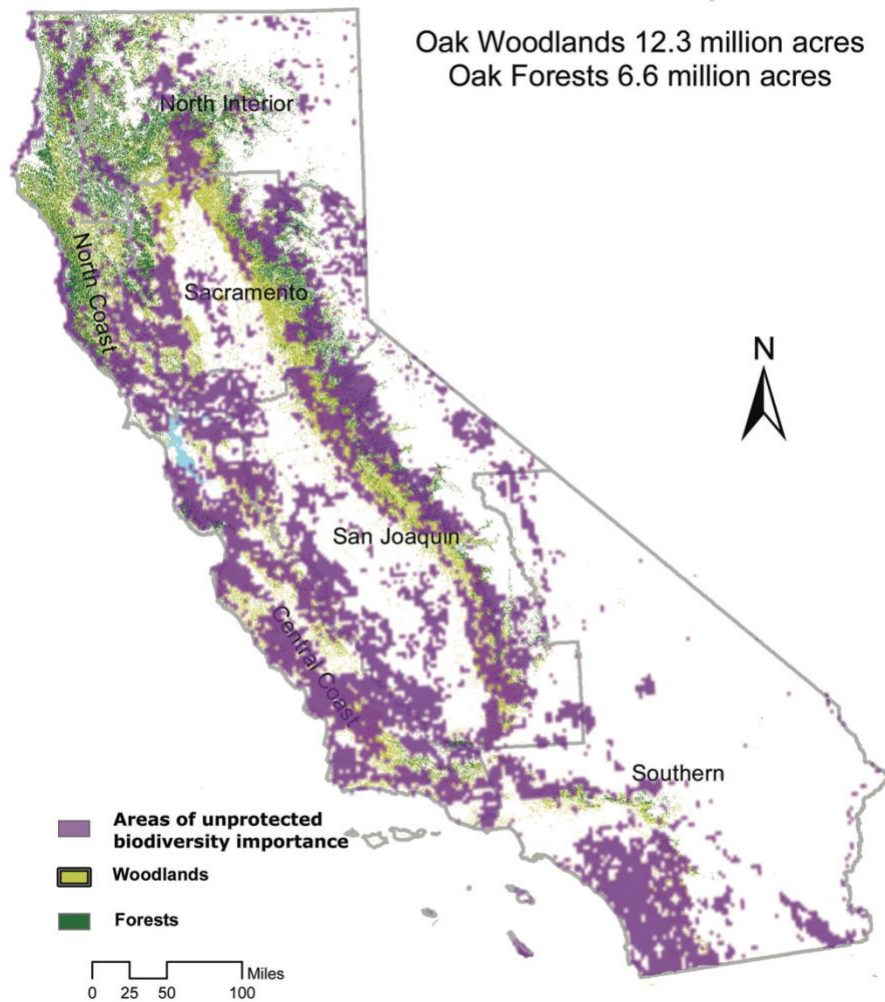
¹ Meadows, R. 2007. Oaks: Research and outreach to prevent oak woodland loss. *California Agriculture* 61(1): 7-10.

² “Slauson, KM, et al. 2019. *A conservation assessment and strategy for the Humboldt marten in California and Oregon*. Gen. Tech. Rep. PSW-GTR-260. U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station. Arcata, CA. 121. (The publication reports: “Hardwoods, specifically tanoak and chinquapin, are important species for providing den and rest sites as well as mast for prey species. The reduction of hardwoods below their natural levels of abundance represents a degradation of habitat.”)

³ Hamilton, H, et al. 2022. Increasing taxonomic diversity and spatial resolution clarifies opportunities for protecting U.S. imperiled species. *Ecological Applications*. 2022:e2534. doi.org/10.1002/eap.2534

oak species maps presented in *Distribution of Forest Trees in California*, are consulted.⁴ The loss of oaks contributes to the loss of biodiversity and to imperiled conservation status of oak-dependent and oak-associated species.

California Oak Woodlands and Forests



Sources / notes: Vegetation derived by California Oaks from LEMMA 2017
Areas of unprotected biodiversity importance from NatureServe. Hamilton, Smyth, and Young et al 2022. *Ecological Applications*
Oak mapping by Tom Gaman, Registered Professional Forester
Nina Salvador Barroll added the Areas of unprotected biodiversity importance layer

California’s oaks in decline: California’s oak ecosystems are not being managed “for long-term health and resiliency, including the perpetuation of their local and broader geographic representation and to continue to provide for their inherent natural and biological values and processes,” as expressed in the goal statement of the Joint Policy on Hardwoods.

⁴ Griffin, JR, et al. 1972. *The Distribution of Forest Trees in California*. USDA Forest Service Research Paper PSW-82. Berkeley, CA.

California is one of the states with the highest number of oak species described as “threatened” in *The Red List of US Oaks*.⁵ The publication utilized International Union for Conservation of Nature standard methodology to assess the range, habitat, population size, population trends, and prevalent threats to each species, which were then assigned to one of eight Red List categories.⁶ The Red List identifies five species of California oak that have been evaluated as threatened: Cedros Island oak (*Quercus cedrosensis*), coastal scrub oak (*Q. dumosa*), Engelmann oak (*Q. engelmannii*), island scrub oak (*Q. pacifica*), and island oak (*Q. tomentella*); and four as near-threatened: valley oak (*Q. lobata*), Palmer oak (*Q. palmeri*), Santa Cruz Island oak (*Q. parvula*), and Sadler’s oak (*Q. sadleriana*).

Additionally, *Quercus douglasii* (blue oak) has been demonstrated to have reproductive challenges⁷ and is considered vulnerable to climate stressors such as changed precipitation and fire patterns and increased heat.⁸ All of California’s native oak species are subject to threats from habitat conversion and fragmentation, disease, changed fire regimes, invasive species, and diminished rainfall and/or groundwater supplies.

Oaks and carbon: Keeping trees standing is essential for California to reach its climate goals. Researchers who authored an article published in *Nature Climate Change* observed: “Global CO₂ emissions from land-use change (primarily deforestation) represented around 12% of global emissions for 2007-2016, while the terrestrial carbon sink stored around 28% of emissions over the same time period.”⁹

An Inventory of Carbon and California Resources estimated 675 million metric tons of carbon are stored in trees, soil, understory, and downed woody material in oak woodlands and in oak-forested lands.¹⁰ The author of that report recently completed a hardwood biomass map of California forest and woodlands, which calculates 903.6 million metric tons of above ground CO₂, hardwood equivalents (mostly oak species) on 18.9 million acres of forest and woodland as of 2017.¹¹

Oaks and watersheds: An estimated [two thirds of California’s drinking water supply](#) flows through or is stored in California’s oak woodlands.¹² Stronger protections of oaks would improve

⁵ Jerome, D, et al. 2017. *The Red List of US Oaks*. The Morton Arboretum, Botanic Gardens Conservation International, The Global Trees Campaign, The IUCN/SSC Global Tree Specialist Group, The USDA Forest Service.

⁶ The IUCN threat categories are separate from and do not align with state or federal threat designations associated with the California or federal Endangered Species Act.

⁷ Gordon, DR, et al. 2000. Competitive suppression of *Quercus Douglasii* (Fagaceae) seedling emergence and growth, *American Journal of Botany* 87(7): 986–994.

⁸ Dwomoh FK, et al. 2021. Hotter Drought Escalates Tree Cover Declines in Blue Oak Woodlands of California. *Front. Clim.* 3:689945. doi: 10.3389/fclim.2021.689945

⁹ Seddon N, et al., 2019. Grounding Nature Based Climate Solutions in Sound Biodiversity Science, *Nature Climate Change*, Volume 9.

¹⁰ Gaman, T. 2008. *An Inventory of Carbon and California Oaks*. California Oak Foundation, Oakland, CA, <https://californiaoaks.org/resources/>

¹¹ Gaman, T, et al., California’s Oaks in the 21st century: using Gradient Nearest Neighbor to map oak woodlands and forests. In review. 2022 California Oak Symposium Proceedings.

¹² O’geen AT, et al. 2010. Research connects soil hydrology and stream water chemistry in California oak woodlands. *California Agriculture* 64(2):78-84.

the conditions of waterways in these landscapes. Nonfederal timberlands, where conifers are dominant, are subject to California's Forest Practice Act whereas rangelands and other landscapes where hardwoods dominate are not protected by comprehensive state regulations. These divergent regulatory regimes produce different ecosystem outcomes. *California's Forests and Rangelands 2017 Assessment* summarized water quality conditions in non-federal timberland compared to rangelands, finding that 62% of forest streams in good condition compared to 34% for rangelands, with 21% of rangeland streams in poor and 21% in very poor condition."¹³

State leadership is needed to protect the ecosystem values of oaks: California needs to enact protections to achieve no-net loss of oaks. The state's oak woodlands are also in need of conservation investments and other incentives to conserve and perpetuate them. This is called for in section II of the joint policy, yet the need is not being met. A study of rangeland conversions on 13.5 million acres in California's Central Coast, Bay Area, and Central Valley found that 37% of blue oak woodlands on rangeland had no conservation designation, as well as 51% of montane hardwoods, 32% of coastal oak woodlands, 41% of blue oak-foothill pine, and 50 % of valley oak woodland.¹⁴

California's Forests and Rangelands 2017 Assessment reports that more than two-thirds of ranchers contacted are receptive to the possibility of financial incentives for improving environmental quality.¹⁵ Conservation easement or tax credit funding should be binding in perpetuity with disallowances for extractive uses of the land. The contracts should also provide management funding and contain monitoring and reporting provisions for compliance to meet established conservation goals.

2. California's reliance on local oak protections has failed.

California's regulatory regime needs to uphold the ecosystem and cultural values of oaks. The suite of measures enacted in recent years to address the problem of conifer encroachment in oak woodlands are an important first step, yet they only address one threat to California's native oaks. Legislation passed in 2022 and state strategic planning initiatives reaffirmed the rights of Indigenous peoples to cultural burning practices, while recognizing beneficial fire as a valuable tool and seeking to streamline permitting for its use (see: <https://wildfiretaskforce.org/wp-content/uploads/2022/05/californias-strategic-plan-for-expanding-the-use-of-beneficial-fire.pdf>). This too is an important step, yet much more needs to be done to perpetuate native California oak ecosystems.

Public Resources Code Section 21083.4 brings some oak woodlands under the California Environmental Quality Act (CEQA). Impacts for projects that reach a threshold of significance are meant to be analyzed and mitigated, but CEQA does not prohibit many actions that result in habitat loss, degradation, and fragmentation. Further, this measure only applies to unincorporated areas of counties, and contains a number of exemptions, which include conversions of oaks on agricultural lands.

¹³ Ferkovich, RL et al. *California's Forests and Rangelands 2017 Assessment*. <http://frap.fire.ca.gov/assessment2017>.

¹⁴ Cameron D, et al. 2014. Whither the Rangeland?: Protection and Conversion in California's Rangeland Ecosystems. *PLOS ONE* 2014:9(8).

¹⁵ See *Supra* note 13.

Most county oak regulations are not protective: Local oak regulations—when they exist—are also often weak and inadequate in protecting wildlife species that are dependent on oaks. For example, El Dorado County relied on the development of an Integrated Natural Resources Management Plan during the update of its oak ordinance to “plan how best to maintain connectivity through the management of land use patterns and the protection of existing wildlife movement, making informed choices for changes in land use designations or improvements to compromised habitats in order to protect wildlife and plants.” However, the requirement for the completion of the Integrated Natural Resources Management Plan was eliminated by the county before the oak ordinance was completed, thereby eliminating the primary analysis, which was meant to ensure that habitat connectivity would be maintained with the new regulations. This prompted a member of [California Oaks Coalition](#) to pursue legal action.

Very few counties—Santa Barbara and Los Angeles counties are two notable exceptions—have robust oak protections. Unfortunately, Los Angeles County has recently enacted measures to weaken some oak protections.

Oak woodland management plan language rarely aligns with oak protections: Goals articulated in oak woodland management plans of counties throughout California are rarely translated into regulations. Many of these plans, which qualify counties to receive Wildlife Conservation Board funding to protect oak landscapes, are collections of aspirational statements, voluntary measures, and goals that are not supported by county measures to realize them. For example, Butte County's Oak Woodland Assessment Report, which the county adopted as its oak woodland management plan, calls for maintaining a canopy of 30% when oaks are harvested (Policy 4.1.2. *When harvesting oaks for fuel or range improvement, encourage land owners to maintain an average leaf canopy of at least 30 percent...*). However, the county proposed an ordinance to streamline the process for mitigation of impacts to oaks, which used removal of 70% or greater as the threshold of significance for California Environmental Quality Act (CEQA) review. The ordinance, which was not enacted, had no mechanism to attain a site-specific goal of 30% or greater oak canopy cover on range or other lands, instead it exempted agricultural lands and was written to facilitate oak removal on other landscapes. (The 30% or greater canopy retention figure is highlighted not because it is sufficiently protective, but instead because its absence in other county planning efforts is illustrative of the disconnect between the county's oak management plan and proposed oak ordinance.)

Current protections for oaks are often not enforced. California law and state vegetation standards define oak woodlands as stands with greater than 10% canopy cover, or that formerly had such cover. This definition is frequently overlooked during environmental reviews. California Oaks has been in communication with California Native Plant Society (CNPS) and California Department of Fish and Wildlife since 2021 regarding this problem. In general, the 10% cover definition for oak woodlands is what *A Manual of California Vegetation* is using for categorizing oak woodland communities, and CNPS updated the Online version of the manual in 2021 for various oak woodland and forest types to reflect that specificity. Nonetheless the problem persists.

Further, California Oaks is only aware of one county, Santa Barbara, that monitors oak mitigation plantings that are undertaken pursuant to Public Resources Code Section 21083.4 to ensure that they meet the required thresholds for tree establishment.

Oaks in many incorporated areas are not subject to protections. As noted above, Public Resources Code Section 21083.4 does not cover impacts in incorporated areas. An oak (*Quercus palmeri*) growing in Jurupa Valley, which [University of California researchers estimate to be 13,000 years old](#), lacks rigorous protections.¹⁶ The oak is composed of 70 stem clusters and is believed to be a single asexually reproducing clone that dates to the Pleistocene. Thanks to Tribal advocacy, the land the oak is growing on is recognized by the Native American Heritage Commission as sacred. The oak is otherwise unprotected.

3. Joint Hardwood Policy assessment efforts appear to be weak.

The joint policy calls for an annual statement in the Director of California Department of Fish and Wildlife's (California Department of Fish and Game when the policy was enacted) report to the Fish and Game Commission that addresses the status of hardwood conservation. Are these annual statements being prepared, and if they are, how are they informing policy and how are they being shared with stakeholders?

The policy also calls for periodic reassessment by California Department of Fish and Wildlife of "the terms and conditions of existing regulations, permit processes and other administrative measures which affect conservation of hardwood resources, and, where feasible, seek corrective action when original terms and conditions have proven inadequate." Are these assessments being carried out?

The joint policy calls for California Department of Fish and Wildlife, contingent upon funding, to "conduct, contract and/or support studies that assess the effects of distribution and densities of blue oak and associated plant species in blue oak-dominated habitats, black oak and associated plant species in black-oak dominated habitats, valley oak and associated plant species in valley-oak dominated habitats, and Engelmann oak and associated plant species in Engelmann oak-dominated habitats on terrestrial and aquatic vertebrates. Have any of these investigations taken place and, if so, how have the results influenced oak management and/or policy?

California Wildlife Foundation/California Oaks presumes that the rangeland assessment reports are CAL FIRE's reports called for in section V E. These are valuable and should inform policy.

The joint policy also directs both departments, in collaboration with other partners, to monitor the status of hardwoods utilizing satellite imagery and ground checking (See section II E 3). The mapping reports issued by California Wildlife Foundation/California Oaks have been undertaken because the state has failed in this realm. Comprehensive, high-resolution, statewide digital oak mapping, created in compliance with Survey of California Vegetation standards, is needed to create a baseline to monitor trends in oaks and other hardwoods. These data should be updated at regular intervals. California's investment in comprehensive mapping in 2022 is a good first step. Additionally, historic oak mapping data should be available for use in identifying areas that may be suitable for oak restoration.

Inadequate mapping data impede local oak protection. The response to California Wildlife Foundation/California Oaks comments on oak provisions of Tuolumne County General Plan update noted (emphasis added): "The commenter's recommendations are not required to be in the Revised Draft Environmental Impact Report, and in fact some would be unenforceable, such

¹⁶ May MR, et al. 2009. A Pleistocene Clone of Palmer's Oak Persisting in Southern California. *PLoS ONE* 4(12): e8346. <https://doi.org/10.1371/journal.pone.0008346>

as absolute limits on oak removals over time, *which would require mapping and historic information not available to County staff.*”¹⁷

The joint policy also states that “staff should report annually, in joint session, to the Commission and the Board” and that “The Board and Commission will meet periodically to review implementation of this policy and to clarify and resolve issues that arise from overlapping interests of their respective departments.” Again, is this taking place and are stakeholders being informed?

The lack of accountability over the past 29-years is more evidence that the Joint Hardwood Policy is a failure.

Recommendations: California needs a no-net-loss standard for oaks that is enforceable and measurable. California Wildlife Foundation/California Oaks understands that the Range Management Committee does not promulgate regulations. That is work that the California Fish and Game Commission and Board of Forestry and Fire Protection need to undertake with their respective departments, with input from your committee, Tribal representatives, the legislature, and other stakeholders.

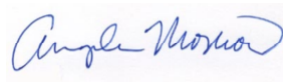
Lastly, this letter’s focus is on *Quercus* species. However, as noted above, the aforementioned 2021 *Oaks* report included tanoak-dependent terrestrial and amphibian vertebrates, and oak carbon calculations presented above included tanoaks as well. Tanoak, which is also in the *Fagaceae* family, provides many ecosystem and cultural values. These trees face many of the same threats as *Quercus* species, with additional threats from forestry practices that target them.

Thank you for your consideration of our comments.

Sincerely,



Janet Cobb, Executive Officer
California Wildlife Foundation/California Oaks



Angela Moskow, Manager
California Oaks Network

cc: Members of California Fish and Game Commission, fgc@fgc.ca.gov

Members of State Board of Forestry and Fire Protection

Senator Nancy Skinner c/o Robert Gammon

¹⁷ Final Environmental Impact Report for the Tuolumne County General Plan Update Project (State Clearinghouse No. 201082027, Prepared by Ascent Environmental) Tuolumne County Community Resource Agency. 2018. 3-73